

# Agenda Item Form

Agenda Date: 04/27/04

Districts Affected: 03

Dept. Head/Contact Information: Patrick T. Abeln, A.A.E. 780-4736

## Type of Agenda Item:

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Resolution            | <input type="checkbox"/> Staffing Table Changes   | <input type="checkbox"/> Board Appointments        |
| <input type="checkbox"/> Tax Installment Agreements       | <input type="checkbox"/> Tax Refunds              | <input type="checkbox"/> Donations                 |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer          | <input type="checkbox"/> Item Placed by Citizen    |
| <input type="checkbox"/> Application for Facility Use     | <input type="checkbox"/> Bldg. Permits/Inspection | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements            | <input type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application         |
| <input type="checkbox"/> Other _____                      |   |  |

## Funding Source:

- ☐ General Fund
- ☐ Grant (duration of funds: \_\_\_\_\_ Months)
- ☐ Other Source: \_\_\_\_\_

## Legal:

☒ Legal Review Required      Attorney Assigned (please scroll down): Sylvia Firth      ☒ Approved      ☐ Denied

Timeline Priority:   ☐ High      ☒ Medium      ☐ Low      # of days: \_\_\_\_\_

## Why is this item necessary:

Authorize Lessor's Approval of Assignment

## Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

None

## Statutory or Citizen Concerns:

None

## Departmental Concerns:

Remarks: The partnership between Mike R. Stewart and Jay F. Stewart was dissolved and Mike R. Stewart has assigned his interest to Jay F. Stewart. Upon approval, Lease will be between the City of El Paso, ("Lessor") and Jay F. Stewart ("Lessee"). All other terms and conditions remain unchanged.

TO: Mayor Joe Wardy  
Jim Martinez, CAO  
City Council Representatives

FROM: Patrick T. Abeln, A.A.E.  
Director of Aviation

DATE: April 5, 2004

SUBJECT: **LESSOR'S APPROVAL OF ASSIGNMENT  
BUTTERFILED TRAIL INDUSTRIAL PARK LEASE  
MIKE R. STEWART TO JAY F. STEWART**

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## **BACKGROUND**

On July 1, 1985, the City entered into a Butterfield Trail Industrial Park Lease with Jay F. Stewart and Mike R. Stewart dba Stewart Enterprises for the land located at #26 Butterfield Trail. The initial term of this lease was for 40 years, with one (1) additional ten (10) year option. The initial term will expire June 10, 2025. The Leased Premises contain approximately 55,737 square feet of land and improvements consist of administrative offices and a warehouse.

The current lease rate is \$0.1392 per square foot, which equates to a total annual rental payment of \$7,758.59. The rental rate is to be adjusted every 10 years to an amount equal to 8% of the fair market value with a 20% cap. The next rental adjustment will be due July 1, 2005. Currently the Lessee is in compliance with all the terms of the Lease.

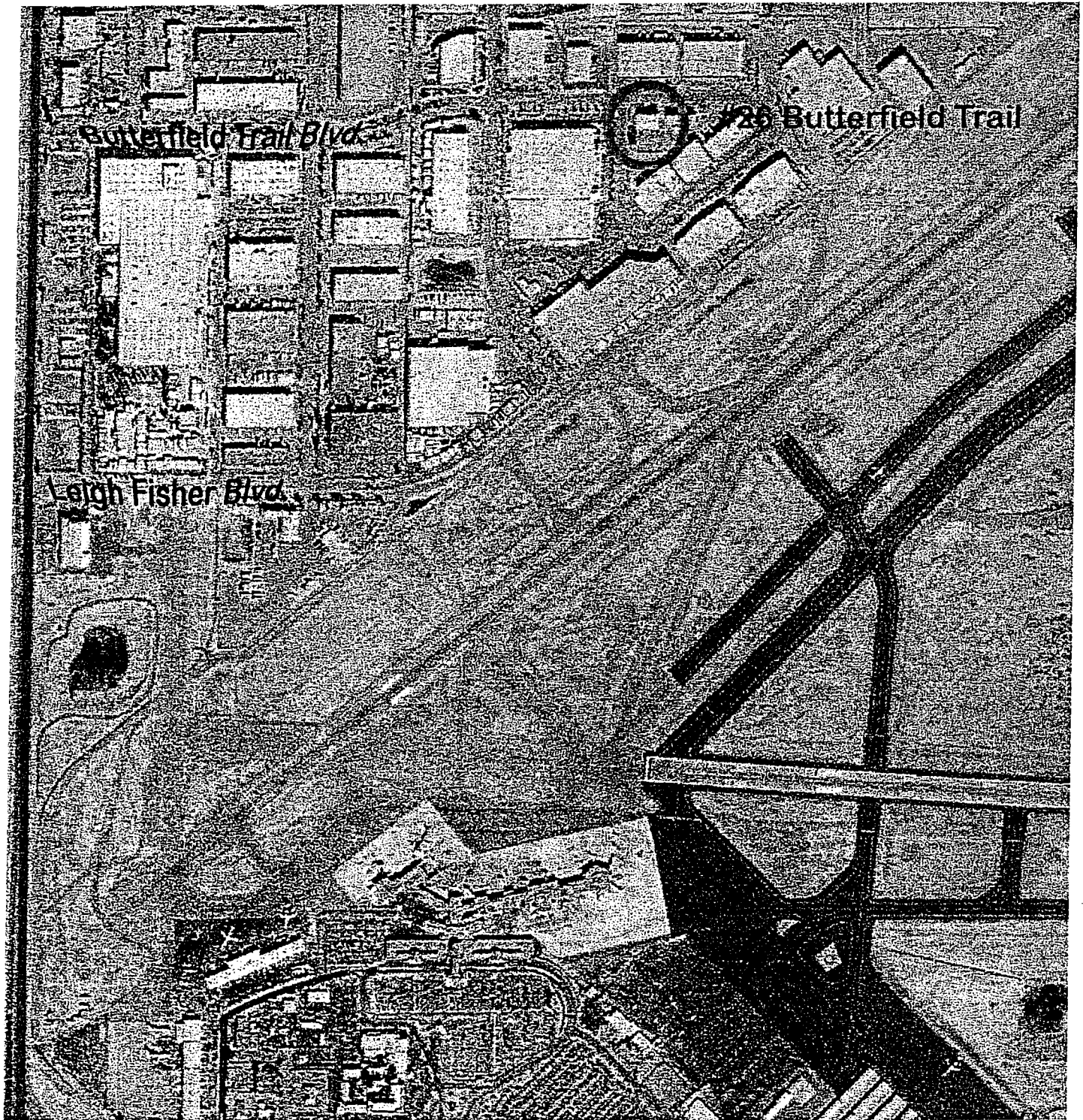
## **ANALYSIS:**

The partnership between Mike R. Stewart and Jay F. Stewart dba Stewart Enterprises has been dissolved and the parties have requested the City's approval of this Lessor's Approval of Assignment of the interests previously held by Mike R. Stewart (Assignor) to Jay F. Stewart (Assignee).

## **RECOMMENDATION:**

The Department of Aviation recommends approval of this Approval of Assignment, which has been reviewed and approved by the City Attorney's office and the Airport Board. This item has been placed on the **City Council agenda** of **April 27, 2004** for your consideration.

Butterfield Trail Industrial Park  
Lessor's Approval of Assignment  
#26 Butterfield Trail  
Jay F. Stewart, Lessee



April 15, 2004

## RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Mike R. Stewart ("Assignor") and Jay F. Stewart ("Assignee") for the property described as a portion of Lot 1, Block 10, Butterfield Trail Industrial Park, Unit 2, City of El Paso, El Paso County, Texas, municipally known and numbered as #26 Butterfield Trail, El Paso, Texas.

ADOPTED this the \_\_\_\_ day of \_\_\_\_\_ 2004.

THE CITY OF EL PASO

\_\_\_\_\_  
Joe Wardy  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Sylvia Borunda Firth  
Assistant City Attorney

\_\_\_\_\_  
Patrick T. Abeln, A. A. E.  
Director of Aviation

ORIGINATING DEPARTMENT: AIRPORT

STATE OF TEXAS

§

§

COUNTY OF EL PASO

§

**LESSOR'S APPROVAL OF ASSIGNMENT**

The City of El Paso ("Lessor") entered into a Butterfield Trail Industrial Park Lease dated July 1, 1985 ("Lease"), with a Texas General Partnership comprised of Jay F. Stewart and Mike R. Stewart, dba Stewart Enterprises ("Lessee") covering the following described leased premises:

A portion of Lot 1, Block 10, Butterfield Trail Industrial Park, Unit 2, City of El Paso, El Paso County, Texas, municipally known and numbered as #26 Butterfield Trail, El Paso, Texas.

1. **CONSENT TO ASSIGNMENT.** The partnership between Mike R. Stewart and Jay F. Stewart has been dissolved and the parties have requested that Lessor consent to the assignment of the interest previously held by Mike R. Stewart ("Assignor") to Jay F. Stewart ("Assignee"). The Assignee agrees that he will be responsible for full compliance with all the terms of the Lease and agrees to continue to abide by all the terms, covenants and conditions of the Lease.
2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
3. **GUARANTOR.** Assignor guarantees payment of rent to the Lessor and shall remain fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Lease.
4. **RATIFICATION OF LEASE.** Except as expressly modified herein, all terms and conditions of the Lease shall remain in full force and effect.
5. **ADDRESS FOR NOTICE.** Notices to Assignee shall be sufficient if sent by certified mail, postage prepaid, addressed to:  
  
Jay F. Stewart  
#26 Butterfield Trail  
El Paso, TX 79906
6. **NON-WAIVER.** The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.

The parties have executed this Lessor's Approval of Assignment hereto this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

**ATTEST:**

**LESSOR: CITY OF EL PASO:**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

\_\_\_\_\_  
Joe Wardy  
Mayor

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Sylvia Borunda Firth  
Assistant City Attorney

\_\_\_\_\_  
Patrick T. Abeln, A.A.E.  
Director of Aviation

**ASSIGNOR:** Mike R. Stewart

\_\_\_\_\_  
Mike R. Stewart

**ASSIGNEE:** Jay F. Stewart

\_\_\_\_\_  
Jay F. Stewart

**ACKNOWLEDGEMENT**

THE STATE OF TEXAS    )  
  )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by Joe Wardy as Mayor of the City of El Paso, Texas ("Lessor").

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_  
(ACKNOWLEDGMENTS CONTINUE ON FOLLOWING PAGE)

**ACKNOWLEDGEMENT**

THE STATE OF \_\_\_\_\_)  
\_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
2004, by Mike R. Stewart ("Assignor").

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**ACKNOWLEDGEMENT**

THE STATE OF \_\_\_\_\_)  
\_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
2004, by Jay F. Stewart ("Assignee").

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_